

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

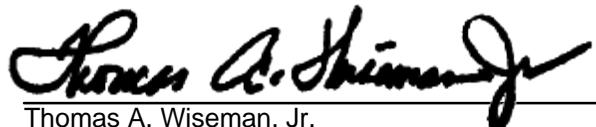
DOMINICK DIMEOLA )  
Plaintiff, )  
v. ) Civil Action No. 3:05cv0988  
MICHAEL J. ASTRUE,<sup>1</sup> )  
Commissioner of Social Security, ) Judge Thomas A. Wiseman, Jr.  
Defendant. )

**ORDER**

This civil action was filed pursuant to 42 U.S.C. § 405(g) to obtain judicial review of the denial of Plaintiff's application for Supplemental Security Insurance ("SSI") benefits, as provided under Title XVI of the Social Security Act ("the Act"), as amended. Presently before the Court is Plaintiff's Motion for Judgment on the Administrative Record. (Doc. No. 23.) Defendant has filed a Response, arguing that the decision of the Commissioner was supported by substantial evidence and should be affirmed. (Doc. No. 33.) Plaintiff has filed a Reply, arguing that Defendant's Response "completely failed to respond to, and thus concedes the validity of, Plaintiff's assertion." (Doc. No. 34, at 1.)

For the reasons set forth in the accompanying Memorandum Opinion, the Court finds that the ALJ applied an incorrect legal standard and that the undisputed facts demonstrate that Plaintiff meets a listed impairment, 20 C.F.R. Pt. 404, Subpt. P, App. 1, § 11.02 and is therefore disabled. Accordingly, Plaintiff's Motion for Judgment on the Administrative Record is **GRANTED**; the decision of the Commissioner is **REVERSED**, and the cause **REMANDED** for further administrative proceedings consistent with this opinion.

It is so ORDERED.



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Thomas A. Wiseman, Jr.  
Senior U.S. District Judge

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<sup>1</sup> Michael J. Astrue is automatically substituted for his predecessor Jo Anne Barnhart as Commissioner of the Social Security Administration. Fed. R. Civ. P. 25(d)(1).